

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Plaintiff,

v.

**MEMORANDUM OPINION AND
ORDER**

Criminal File No. 10-09(1) (MJD)

KOU LEE,

Defendant.

Katharine T. Buzicky, Assistant United States Attorney, Counsel for Plaintiff.

Kou Lee, Defendant, pro se.

This matter is before the Court on Defendant's Motion for a Sentence Reduction. (Doc. 590.) For the reason addressed below, this motion is dismissed without prejudice.

I. Background

On July 19, 2010, Defendant pleaded guilty to conspiring to distribute controlled substances in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and 846. Defendant is currently committed to the custody of the Bureau of Prisons ("BOP") for a total of 240 months' imprisonment. Defendant is currently serving

his sentence at FCI Schuylkill and set to be released in August 2027. See Bureau of Prisons (BOP), Find an inmate, <https://www.bop.gov/inmateloc/> (last accessed Jan. 1, 2025). Defendant currently seeks compassionate release.

II. COMPASSIONATE RELEASE

A. Exhaustion Requirement

Under the First Step Act, 18 U.S.C. § 3582(c)(1)(A), the Court may, upon a defendant's motion following (1) exhaustion of administrative remedies or (2) the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier, "reduce the term of imprisonment (and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment), after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that-- (i) extraordinary and compelling reasons warrant such a reduction . . . and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission."

Here, Defendant failed to exhaust his administrative rights. The administrative exhaustion requirement is a mandatory claim-processing rule. United States v. Houck, 2 F.4th 1082, 1084 (8th Cir. 2021). As a mandatory claim-processing rule, this requirement "must be enforced so long as the opposing

party properly raises it.” Id. The Government properly raised this issue. (Doc. 603 at 5-6.) Failure to exhaust administrative remedies prior to filing a motion requires a district court to dismiss the motion without prejudice. Id. Thus, the Court must dismiss this motion without prejudice.

III. ORDER

Accordingly, based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that Defendant Kou Lee’s Motion for Sentence Reduction [Doc. 590] is **DISMISSED without prejudice**.

Date: January 30, 2025

s/Michael J. Davis
Michael J. Davis
United States District Court